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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF ARIZONA**

9 United States of America,

10 Plaintiff,

11 vs.

12 Isaias Delgado,

13 Defendant.  
14

CR 19-1094-TUC-JGZ (JR)

GOVERNMENT'S SENTENCING  
MEMORANDUM

15 Plaintiff, United States of America, by and through its attorneys undersigned,  
16 hereby files its Sentencing Memorandum for Defendant Isaias Delgado in the above-  
17 referenced case. Sentencing is currently set for June 3, 2022.

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. FACTS AND PROCEDURAL HISTORY**

20 Between December 17, 2018, and April 4, 2019, in and around Tucson, the  
21 defendant, Isaias Delgado (hereinafter "the defendant"), repeatedly purchased and resold  
22 firearms for the purpose and principal objection of making a profit. During this time  
23 period, the defendant spent over \$80,000 on at least 39 firearms. Included in the  
24 defendant's firearm purchases were numerous high-value, large caliber firearms such as  
25 multiple Barrett .50 caliber BMG rifles, FNH 249 belt-fed rifles, .50 caliber Beowulf  
26 firearms, AR-15/M4 type rifles and pistols, AK-47 type rifles, and numerous 9mm and .40  
27 caliber handguns. In the two-week period between March 14 and 27, 2019, alone, the  
28 defendant purchased eleven firearms for a total purchase price of approximately \$48,500.

1 A review of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Federal  
2 Licensing System records confirmed that the defendant has never possessed a license to  
3 engage in the business of dealing firearms. When interviewed by ATF Special Agents, the  
4 defendant admitted he did not have a license to deal firearms, and had been thinking of  
5 getting one but never did so. The defendant also admitted to profiting from several of his  
6 firearm sales.

7 Additional investigation into the defendant's financial records revealed that his  
8 income did not support the amount of money he was spending on firearms. For instance,  
9 his adjusted gross income for 2018 was reported as approximately \$31,000 – far less than  
10 the amount he spent on firearms in two weeks in March 2019 alone. In fact, the total  
11 amount the defendant spent on firearms between December 2018 and April 2019 exceeded  
12 his adjusted gross income for the preceding three years (2016, 2017, and 2018) combined.  
13 The defendant's bank account records also revealed a significant correlation between the  
14 dates and amounts of the defendant's firearm purchases and his cash deposits, and  
15 indicated he did in fact profit from his repeated firearm sales. A search of Internal  
16 Revenue Service records revealed that, prior to being charged in this case, the defendant  
17 had never filed income taxes.

18 In connection with the defendant's firearms purchases, he acquired a number of  
19 firearms from federally licensed firearms dealers in Tucson and provided a false address in  
20 the required paperwork for these purchases. Specifically, on March 20, 2019, the  
21 defendant purchased a Smith & Wesson model SD40 .40 S&W caliber pistol from N&N  
22 Firearms and stated in the Form 4473 (the documentation required by federal law to be  
23 completed in connection with every firearm purchase from a licensed dealer) for the  
24 purchase that his current residence address was 1554 E. Melridge St., Tucson, AZ 85706.  
25 On March 28, 2019, the defendant purchased a Diamondback model DB-15 5.56 NATO  
26 caliber rifle from SnG Tactical and provided the same address on the Form 4473 for this  
27 purchase. On April 4, 2019, the defendant purchased two Barrett model M82A1 .50 BMG  
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1 caliber rifles, two FN model M249S .223/5.56mm caliber rifles, and one Browning model  
2 M1919 7.62 caliber rifle from N&N Firearms and again provided the same address on the  
3 Form 4473 for this purchase.

4 The investigation revealed that the defendant did not live at 1554 E. Melridge Street.  
5 His mother, who did live at the address, stated that the defendant did not reside at the home  
6 and never had lived there. She believed the defendant lived in Mexico with his wife and  
7 child, and stated he only stayed in the garage occasionally for one night at a time. She  
8 stated that the defendant did not keep his belongings in her home, and a search of the home  
9 confirmed this. The defendant's sister, who lived at 1554 E. Melridge Street as well, also  
10 stated that the defendant did not live at the home, did not keep any belongings there, and  
11 only occasionally stayed in the garage just as any visitor to the home would. The next-door  
12 neighbor, who was familiar with the defendant's mother and sister, said he had never seen  
13 the defendant at 1554 E. Melridge Street.

14 An Indictment was filed on April 24, 2019, charging the defendant with one count  
15 of Engaging in the Business of Dealing Firearms Without a License (Count One) and three  
16 counts of Making False Statements in Records of Federal Firearms Licensees (Counts Two,  
17 Three, and Four). A jury trial for Count One began on August 9, 2021, and the government  
18 dismissed Counts Two through Four. On August 12, 2021, the jury found the defendant  
19 guilty of Count One, Engaging in the Business of Dealing Firearms Without a License. On  
20 August 13, 2021, following a forfeiture hearing, this Court ordered the forfeiture of 25  
21 firearms involved in the defendant's offense of conviction and for which the government  
22 had previously provided notice of its intent to pursue judicial forfeiture in the Indictment  
23 and Bill of Particulars. Sentencing is currently scheduled for June 3, 2022.

## 24 **II. APPLICABLE GUIDELINE CALCULATIONS**

25 The government submits that the defendant's base offense is 12 pursuant to  
26 U.S.S.G. §2K2.1(a)(7). Six levels are added pursuant §2K2.1(b)(1)(C) for an offense  
27 involving between 25 and 99 firearms, four levels are added pursuant to §2K2.1(b)(5) for  
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1 trafficking of firearms, and four levels are added pursuant to §2K2.1(b)(6) for either (A)  
2 transportation of firearms out of the United States, or (B) connection with another felony  
3 offense. (The government submits that the enhancement is applicable here under both  
4 provisions.) Two additional levels are added pursuant to §3C1.1 for obstruction of justice,  
5 for a total offense level of 28. Together with the defendant's Criminal History Category of  
6 I, the advisory sentencing guideline range is 78 to 97 months imprisonment. However, the  
7 statutory maximum sentence of incarceration for a violation of 18 U.S.C. §922(a)(1)(A) is  
8 5 years (60 months).

### 9 **III. GOVERNMENT'S SENTENCING RECOMMENDATION**

10 The government requests that this Court sentence the defendant to 60 months  
11 imprisonment, which appropriately reflects the severity of the offenses and the individual  
12 characteristics of the defendant.

13 The defendant's offense in this case is very serious. He unlawfully acquired and  
14 sold firearms repeatedly over the course of several months. The defendant's crime  
15 involved at least 39 firearms – each a deadly weapon capable of causing an unlimited  
16 amount of harm to others. In fact, at least two of the firearms were recovered in Mexico,  
17 where they are not only unlawful to possess, but were also found in connection with  
18 additional crimes. The correlation between the defendant's border crossing records,  
19 financial records, and firearm purchases indicates he trafficked most or all of the firearms  
20 into Mexico, and the potential devastation that has been, is being, and will be caused by  
21 each of these as-yet unrecovered firearms – as a direct result of the defendant's crime – is  
22 beyond measure. Of note, all of the firearms the defendant bought and sold are considered  
23 “weapons of choice” preferred and sought after by criminal organizations in Mexico.

24 A number of additional aggravating circumstances exist in this case. The defendant  
25 went to great lengths to prevent discovery of his firearm trafficking crime, such as renting a  
26 storage locker for use in his offense, removing identifying information from the cases of  
27 firearms he bought and sold, and providing an address where he did not reside in  
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1 connection with the firearm purchases. This conduct is troubling for two reasons; first, it  
2 shows that the defendant was well aware of the unlawfulness of his conduct and well as the  
3 unlawfulness of the ultimate destination and purpose of the firearms. Second, it indicates  
4 that the full extent of the defendant's criminal conduct – including the total number of  
5 firearms he placed into the hands of a transnational criminal organization – remains  
6 unknown.

7 While every firearm is a deadly weapon with the capacity to cause an immense  
8 amount of harm, the firearms the defendant illegally trafficked are particularly alarming.  
9 The defendant bought and sold numerous .50 caliber rifles (a devastatingly high-caliber  
10 weapon), 7.62x39mm caliber (AK-47 variant) rifles, 5.56 caliber (AR-15 variant) rifles,  
11 belt-fed rifles (capable of rapid repeated fire from belts of linked ammunition), and multi-  
12 caliber AR-15 variant firearms (capable of conversion to various calibers, including .50  
13 and 5.56). The government submits that the specific types of the firearms involved in the  
14 defendant's offense weigh significantly in aggravation.

15 Also weighing heavily in aggravation are the several acts of deception by defendant  
16 in attempt to avoid conviction in this case. Although the defendant had never previously  
17 filed income taxes, approximately one week after having been indicted in this case, he filed  
18 late tax returns for 2016, 2017, and 2018, claiming net income of \$44,415, \$61,130, and  
19 \$66,937, respectively. Then while this case was pending trial, the defendant filed his 2019  
20 tax return in which he claimed \$200,256 in gross income – approximately three times the  
21 amount of income he claimed the previous year, and almost twice the total he claimed in  
22 the previous three years combined. The defendant filed his 2019 tax return while pending  
23 trial in attempt to explain the large amounts of cash withdrawals and deposits in his bank  
24 account that correspond to the dates of his firearm purchases and sales. The defendant  
25 introduced this tax return at trial and argued that these monetary transactions were related  
26 to the defendant's internet business rather than his repeated purchase and sales of firearms.  
27 However, although he claimed \$200,256 in gross income in his 2019 tax return, he only  
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1 provided documentation of \$34,517.77 in income, and his two witnesses at trial could only  
2 account for a small fraction of the income the defendant claimed in his 2019 tax return. Of  
3 note, the defendant did not make any payments toward his taxes owed for his 2016, 2017,  
4 2018, or (highly inflated) 2019 returns.

5 The defendant also made several materially false statements to the agents during  
6 their investigation in this matter. He claimed that an employee of one of the licensed  
7 firearms dealers at which he repeatedly purchased firearms had advised him his conduct of  
8 buying and selling firearms was lawful. However, the employee testified that he had never  
9 advised the defendant that his conduct was lawful, but to the contrary had offered for a  
10 small fee to conduct the defendant's firearm sales on his behalf, thereby bringing the sales  
11 in compliance with federal law. The defendant declined the employee's offer and did not  
12 bring his subsequent firearm sales within the legal requirements. The employee's  
13 testimony is also noteworthy because, like the defendant's attempts to conceal his firearm  
14 dealing, it shows the defendant was well aware of the unlawfulness of his conduct.

15 The defendant also claimed that he was a gun enthusiast, regularly went shooting at  
16 a local rifle club, and had shot the .50 caliber rifles he purchased at this club. However, the  
17 defendant had only been shooting at the club once and that the specific range he used on  
18 this one occasion did not permit .50 caliber firearms. And finally the defendant claimed  
19 that he sold one of his firearms because it was jamming and was subject to a recall.  
20 However, this particular firearm was never subject to recall, and the only recall for that  
21 type of firearm was unrelated a jamming issue. The fact that the defendant had several  
22 false stories prepared when interviewed by agents reveals he put a great deal of thought and  
23 effort in concealing his crime.

24 The defendant committed his serious weapons crime out of greed, putting countless  
25 lives in danger to make large sums of money. The defendant has income and assets – in  
26 fact, the Probation Department recommends a fine of \$15,000 as part of the Court's  
27 sentence – and was not motivated to engage in his unlawful conduct out of necessity.  
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1 Additionally, the defendant's ongoing and repetitive conduct, his apparent fascination with  
2 firearms, and the significant profit he realized from his crime all suggest he would have  
3 continued this conduct if not detected by law enforcement. In fact, when arrested he was in  
4 the process of obtaining several more firearms he intended to traffic, and had additional  
5 pending firearm orders awaiting delivery. The defendant's extensive efforts to conceal his  
6 illegal firearm dealing, as discussed, further reveal his intent to continue his profitable  
7 crime.

8 The defendant's Criminal History Category of I is reflected in his guideline  
9 calculations, and therefore his lack of prior convictions does not support a departure from  
10 the guideline range. Additionally, his criminal conduct in this matter was extensive and  
11 ongoing over a significant period of time, and cannot be considered aberrant conduct. The  
12 government submits that no mitigating factors exist in this case.

13 The government agrees with the Probation Department that a fine is appropriate in  
14 this case, in light of the defendant's assets and the profits he realized from his crime. The  
15 government respectfully requests that, in addition to a term of 60 months imprisonment, the  
16 Court impose a fine of at least the \$15,000 as recommended. The government also  
17 believes that a term of 36 months of supervised release is appropriate. Because the  
18 defendant has not accepted responsibility for his crime, the government submits that a  
19 lengthy period of supervision may be necessary to protect the public from future criminal  
20 conduct.

#### 21 **IV. CONCLUSION**

22 For the reasons discussed, the government respectfully requests that this Court  
23 sentence the defendant to 60 months imprisonment, a fine of at least \$15,000, and a term of  
24 36 months of supervised release. The government submits that this sentence is appropriate  
25 and no greater than necessary based on the facts and circumstances of the offenses and the  
26 individual characteristics of the defendant.  
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1                                Respectfully submitted this 26th day of May, 2022.

2    GARY M. RESTAINO  
3    United States Attorney  
4    District of Arizona

5    s/ Angela W. Woolridge

6    ANGELA W. WOOLRIDGE  
7    Assistant U.S. Attorney

8                                Copy of the foregoing served  
9                                electronically or by other means  
10                              this 26th day of May, 2022, to:

11                              Barbara Catrillo, Esq.  
12                              Attorney for Defendant Isaias Delgado  
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